



A GUIDE FOR

Families in Juvenile Cases

Published by

Maine Judicial Branch
Administrative Office of the Courts

August 2020

Important Disclaimer

The specific requirements concerning your case are contained in the statutes, rules, and administrative orders. This is only a guide.

CONTENTS

Introduction	1
I. Important Information for Parents & Guardians	1
II. FAQs for Parents & Guardians	2
III. Cases Involving Juveniles Not Heard in Juvenile Court	4
IV. What Happens in a Juvenile Court Case	4
Contact with Law Enforcement	4
Summons	5
Arrest	6
School Safety Concern	7
Role of the Juvenile Community Corrections Officer (JCCO)	7
Detention Hearing	9
First Court Appearance	10
Competency Hearing in a Juvenile Case	10
Options for Resolving a Juvenile Case	12
Appeals	15
V. Confidentiality & Court Records	15
Court Hearings and Records	15
Juvenile Court Records	16
Sealing a Juvenile Court Record	17
VI. Juveniles in the Custody of the Department of Health and Human Services or in Interim Care	18
DHHS Custody	18
Interim Care	20
Definition of Key Terms	20
Selected Resources	23
Disability accomodation	26
Language access	26

This page intentionally left blank.

INTRODUCTION

Maine Juvenile Court is the system that handles most cases involving juveniles. A juvenile is an individual under 18 years of age. A juvenile is brought into juvenile court when it is alleged that an offense has been committed that would be considered a crime if the conduct had been committed by an adult.

This guide will give readers an overview of how juveniles may come to be involved in a juvenile case. It will provide information on the process of a case, the role of law enforcement, Juvenile Community Corrections Officers from the Department of Corrections, staff of the Department of Health and Human Services, and others who typically participate in a case.

The guide is written both for young people who may be involved in a case and also, just as importantly, for parents, guardians, family members, and community members who want to better understand Maine's juvenile justice system.

A simple glossary of key terms is included at the end of this guide. Words in **bold** are defined in this section.

I. IMPORTANT INFORMATION FOR PARENTS & GUARDIANS

Parents and guardians:

- Must be notified that their child has been arrested without undue delay;
- Have a right to know where their child is being held;
- May be present during any questioning; and
- Are required to attend court hearings.

It is very important for parents to help their child:

- Follow any *Juvenile Conditions of Release (JV-006)* that the court may set;
- Complete with all the requirements of an **Informal Adjustment**; and/or
- Fulfill all the terms of a **disposition** ordered by the court after **adjudication**

A **Juvenile Community Corrections Officer (JCCO)** may be involved in a juvenile case from the investigative stage through the **disposition**. In some cases, the JCCO may arrange an informal adjustment of the case instead of having the case proceed in Juvenile Court.

II. FAQs FOR PARENTS & GUARDIANS

1. If my child is arrested, when will I be notified?

Law enforcement must notify a parent, guardian, or legal custodian of the **arrest** “without unnecessary delay.” Law enforcement must also tell a parent, guardian, or legal custodian where the juvenile is and the name and telephone number of the JCCO who has been contacted. If the juvenile has been **detained**, the parent, guardian, or legal custodian must be told that a **detention** hearing will be held within 48 hours, not including Saturday, Sunday, and legal holidays. See Part IV. What Happens in a Juvenile Case for more information.

2. If my child is arrested, can I see or be with my child during questioning?

Yes. See Notice of arrest to parent, guardian, or legal custodian in Part IV. What Happens in a Juvenile Case.

3. Am I financially responsible if my child injures someone or causes property damage?

A parent, legal guardian, or legal custodian of a child between the ages of 7 and 17 who lives at home is responsible for up to \$800 in damages when the juvenile “willfully or maliciously” causes damage to property or injures a person. See 14 M.R.S. § 304.

4. Am I financially responsible for my child's actions if my child is driving my car?

State law provides that any vehicle owner who allows a juvenile to drive a vehicle on a public street is responsible for damages if the juvenile is negligent in operating the vehicle. See 29-A M.R.S. § 1651.

5. Am I required to attend my child's court hearings?

Yes, unless you are unable to attend for a good reason and have gotten permission from the court before the court date to not attend. See Copy of **summons** to parent, guardian, or legal custodian in Part IV. What Happens in a Juvenile Case.

6. When can I request a court-appointed lawyer if our family cannot afford one?

If you cannot afford a lawyer, you will have a chance to fill out paperwork asking the court to appoint a lawyer at the juvenile's first court date. This could be when

the juvenile appears before a **judge** for a detention hearing or the first appearance in court. See Detention Hearing and First Court Appearance in Part IV. What Happens in a Juvenile Case.

7. Who is permitted to attend my child's court proceedings?

A juvenile's hearing may be closed or open to the public depending upon what offense the juvenile is charged with. See Part V. Confidentiality & Court Records.

8. What are the consequences if my child is adjudicated of a juvenile crime?

This is an important question, but the answer depends on many factors. Ask the juvenile's lawyer. The juvenile's lawyer can explain what the "collateral consequences" might or will be if the juvenile is **adjudicated** of having committed a juvenile crime, including the following:

- Getting into college;
- College or post-secondary scholarships, grants, or federally-subsidized loan programs;
- Joining the U.S. military;
- Receiving different forms of federal assistance;
- Getting a driver's license;
- Having firearms;
- Applying for a job with certain employers;
- Renting an apartment; and
- The juvenile's immigration status, if the juvenile is not a U.S. citizen.

9. Can I participate in or be present at meetings between my child and the defense lawyer?

The attorney-client relationship in juvenile cases is between the juvenile and the juvenile's lawyer. Therefore, it is up to the juvenile whether a parent is allowed to be in the room with the juvenile and the lawyer when there is a meeting. If a parent is in the room, the conversations are no longer confidential.

III. CASES INVOLVING JUVENILES NOT HEARD IN JUVENILE COURT

Certain motor vehicle and hunting and fishing offenses

Some illegal acts committed by juveniles are not processed in the juvenile court. Instead, they are handled in the Unified Criminal Courts. These crimes include operating a motor vehicle without a license, fishing without a license, speeding, texting while driving, and many crimes involving motor vehicles, snowmobiles, ATVs, and watercraft. See 15 M.R.S. § 3103(1)(E-F).

Being tried as an adult

If a juvenile is charged with a serious offense — murder, or a Class A, B, or C crime if committed by an adult, the State may file a motion to have the juvenile tried as an adult.

After the motion is filed, the judge will hold a **bind over hearing** to determine if the juvenile should be tried as an adult. At the bind over hearing, the court considers testimony as to the seriousness of the offense, evaluations, and whether the current juvenile system can provide necessary services to the juvenile. If a juvenile is bound over, all remaining court matters are held in adult criminal court and the juvenile is subject to adult penalties. 15 M.R.S. § 3101(4).

Right to Appeal a Bind Over Decision

If the juvenile disagrees with the court's bind over decision, the juvenile may file an appeal. See Appeals in Part IV. What Happens in a Juvenile Case for more information.

IV. WHAT HAPPENS IN A JUVENILE COURT CASE?

Contact with Law Enforcement

A law enforcement officer investigating possible criminal activity by a juvenile may:

- Speak with the juvenile and decide not to take any action;
- Give the juvenile a *Juvenile Summons (JV-002)* if the officer thinks the juvenile has committed an offense; or
- Arrest and summons the juvenile.

If a juvenile gets a summons or is arrested and given a summons, law enforcement notifies the Juvenile Community Corrections Officer (JCCO) at the Department of Corrections. The JCCO decides if the juvenile will be detained until the first court appearance or will be allowed to stay with the juvenile's parent, guardian, or legal custodian. See Role of the Juvenile Community Corrections Officer.

Summons

A summons has information about the charges against the juvenile. The summons includes when the juvenile must go to court. The summons also has the address of the courthouse. Offenses listed in the summons are only accusations — a judge will later decide if they are true.

Copy of Summons to Parent, Guardian, or Legal Custodian

The juvenile's parent, guardian, or legal custodian also gets a copy of the summons. The juvenile's parent, guardian, or legal custodian must go to court with the juvenile, unless excused for a good reason. If the juvenile's parent, guardian, or legal custodian are unable to attend court, they must notify the court ahead of time and get permission not to attend.

Notice of Informal Adjustment

The summons contains a notice that the juvenile may not need to go to court if the juvenile and other individuals, like the JCCO, are able to agree to what is called an informal adjustment.

Constitutional Rights

The summons lists the juvenile's rights, including:

- The right to remain silent; however, if the juvenile says anything after being told of this right, what the juvenile says may be used against the juvenile in court.

- The right to a hearing (trial) before a judge, where the State is required to prove the charge(s) beyond a reasonable doubt.
- The right to be represented by a lawyer. A lawyer will be appointed for the juvenile if the juvenile or the parent, guardian, or legal custodian cannot afford one.
- The right to confront and cross-examine witnesses at the hearing.
- The right to testify, or to choose not to testify. The juvenile's silence may not be used against the juvenile at the hearing.

15 M.R.S. § 3304

Arrest

If police believe that a juvenile is not safe to be in the community, the officer may arrest the juvenile. In many cases, the juvenile is held in police custody for a short period of time and then released to the custody of a parent, guardian, or legal custodian.

Notice of arrest to parent, guardian, or legal custodian.

The juvenile's parent, guardian, or legal custodian must be notified that the juvenile has been arrested without unnecessary delay. In addition, the juvenile's parent, guardian, or legal custodian must:

- Be told where the juvenile is;
- Be allowed to see the juvenile; and
- Be present during all questioning.

Police may:

- Ask the juvenile basic questions, like the juvenile's name, address, and ask for identification without the juvenile's parent, guardian, or legal custodian being present; and
- Ask the juvenile questions without the juvenile's parent, guardian, or legal custodian being present if the juvenile's parent, guardian, or legal custodian allow it.

If police have tried but have not been able to contact the juvenile's parent, guardian, or legal custodian, the juvenile may be questioned before they are contacted only if police think there is ongoing criminal activity or that criminal activity is about to happen.

15 M.R.S. § 3203-A (Arrested juveniles; release; detention; notification).

School Safety Concern

If police have believable information that there is immediate danger to the safety of students or school employees on school grounds, or at a school function, police may notify the school principal or superintendent of the school.

15 M.R.S. § 3301-A(1) and 20-A M.R.S. § 1055 (11) (School Safety).

Role of the Juvenile Community Corrections Officer (JCCO)

Preliminary investigation

A JCCO is assigned to a juvenile case based on where the juvenile and/or legal guardian live. Once a juvenile's case is given to a JCCO, the JCCO investigates the facts and may:

- Decide that no further action is needed;
- Offer to enter into an informal adjustment with the juvenile to end the case; or
- Recommend to the prosecutor that a juvenile petition be filed with the court to open a court case.

A JCCO may also be involved in a juvenile's case in other ways, including:

- Working out *Juvenile Conditions of Release (JV-006)* or recommending detention if the juvenile is arrested; and
- Being the juvenile's probation officer.

15 M.R.S. § 3301 (Preliminary investigation, informal adjustment and petition initiation).

Informal adjustment

An informal adjustment is a voluntary agreement between a juvenile and a Juvenile Community Corrections Officer (JCCO). The juvenile agrees to certain items and, if done, the JCCO recommends to the prosecutor that a petition charging the juvenile with a juvenile offense not be filed with the court. The prosecutor then makes the decision as to whether the petition will be filed.

If an informal adjustment is available the juvenile must admit to having committed the juvenile crime and agree to do certain things. These may include:

- Doing community service;
- Paying money to the victim (also called “restitution”);
- Going to school or work;
- Obeying a curfew or an order not to be around certain people;
- Writing a letter of apology;
- Participating in a restorative justice process; and/or
- Getting counseling or other therapeutic services.

The specific things the juvenile agrees to do in the informal adjustment are worked out between the juvenile, the juvenile’s parent, guardian, or legal custodian, and the JCCO. If the juvenile has a privately-hired lawyer, the lawyer may also be involved. The prosecutor must agree to have the case settled through an informal adjustment.

An informal adjustment is voluntary. A juvenile does not have to agree to an informal adjustment. If an agreement is not reached, statements the juvenile has made to the JCCO while trying to work out an informal adjustment cannot be used against the juvenile in a court case.

Informal adjustments can last up to six months.

If a juvenile enters into an informal adjustment and successfully completes the terms, the juvenile will not have to go to court and will not have a juvenile case record. See Juvenile Court Records in Part V. Confidentiality & Court Records for more information.

15 M.R.S. § 3301 (Preliminary investigation, informal adjustment, and petition initiation).

Detention

If a juvenile is arrested and police believe the juvenile should not be released before going to court, the police will request that the juvenile be moved to a juvenile corrections facility. In this case, a JCCO must be contacted immediately. The JCCO may order the juvenile detained only if certain conditions are met. The JCCO may let the juvenile be released with or without conditions while waiting for the first court appearance. See Role of a Juvenile Community Corrections Officer.

In general, a juvenile may not be held in an adult jail or adult detention facility. If this cannot be avoided, the juvenile must be kept away from the adults so they cannot see or hear each other. The juvenile must have a detention hearing before a judge within 24 hours (not including weekends and holidays).

Otherwise, any decision to detain a juvenile, at a juvenile only facility, must be reviewed by a judge within 48 hours (not including weekends and holidays).

15 M.R.S. § 3203-A (Arrested juveniles; release; detention; notification).

Detention Hearing

A juvenile who is detained after an arrest must have a hearing before a judge within 24 or 48 hours, depending where the juvenile is being held.

To determine if a juvenile should be detained or released, the court considers many things, including:

- The seriousness of the charge and whether there is probable cause to believe that the juvenile committed the offense;
- Whether the juvenile will have appropriate supervision, care, and be safe if released to the custody of the juvenile's parent, guardian, or legal custodian;
- The safety of the community; and
- Whether the juvenile refused to participate voluntarily in a conditional release placement or has a prior record of not appearing at court.

15 M.R.S. § 3203-A(5) (Detention hearings).

Right to a Lawyer

If the juvenile does not already have a lawyer, the court will let the juvenile know of the right to talk to a lawyer at the detention hearing and at every stage of the case. If the juvenile's parent, guardian, or legal custodian cannot afford a lawyer, the juvenile will have a lawyer appointed and the State will pay for the lawyer. See *Motion and Affidavit for Assignment of Counsel (CR-JV-032)*.

The juvenile is encouraged to speak with the **lawyer of the day** at the detention hearing and/or at the first court appearance. If the court orders the juvenile to be detained, the court will appoint a lawyer to represent the juvenile and will schedule a time to review the detention.

15 M.R.S. § 3306 (Right to a Lawyer)

Right of appeal

If the juvenile disagrees with the court's decision about detention, the juvenile, the juvenile's parent, guardian, or legal custodian may file an appeal. The juvenile can be represented by a lawyer at State expense for the appeal if the juvenile's parent, guardian, or legal custodian cannot afford one.

First Court Appearance

Unless the juvenile has already had a detention hearing, the first time the juvenile will come to court will be to answer the charges. This hearing is often called a "first appearance" or "initial appearance."

Answer

The judge will read the charges and explain the juvenile's constitutional rights. The juvenile will "answer," that is, tell the court if the juvenile:

- Denies the charges (Denial);
- Admits to the charges (Admit);
- Is "not contesting" the charges (admitting to the facts that the **prosecutor** says they can prove but not admitting guilt); or
- Believes to not be responsible because of insanity or lack of competency;
or
- Believes to not be responsible due to lack of criminal responsibility.

See Competency Hearing in a Juvenile Case.

If the juvenile does not answer, the court will enter a denial. 15 M.R.S. § 3305 (Answer).

Competency Hearing in a Juvenile Case

A juvenile is considered competent or able to participate in the case if the juvenile can:

- Understand the charges;
- Understand the different ways a case can be resolved; and
- Help the **defense lawyer** prepare and present the case.

15 M.R.S. § 3318-A(2) (Competency to proceed in a juvenile proceeding).

How the court decides

If there is a question about whether the juvenile is competent, the court may order a competency evaluation by the State Forensic Service. The evaluation must take place within 21 days from when the court orders it.

15 M.R.S. § 3318-A(3) (Determination of competency).

The issue of competency can be raised by the juvenile, the defense lawyer, the prosecutor, or the judge hearing the case.

What happens after the evaluation?

When all the parties have a copy of the evaluation, the court holds a hearing to determine if the juvenile is competent. The evaluation and other evidence can be considered by the court when deciding if the juvenile is competent.

- If the court decides that the juvenile is competent, the case goes forward as any other case would.
- If the court decides that the juvenile is not competent, the court then needs to determine if the juvenile may be competent in the near future. The court may delay proceedings and reevaluate the juvenile in the next couple of months to see if the juvenile is competent.
- If the court decides that the juvenile will not be competent in the near future, then the court considers whether the juvenile needs services from or needs to be placed in the custody of the Department of Health and Human Services. The court may order the juvenile to receive services or treatment. In this case, the court must dismiss the petition that was filed.
- If an adjudication was already made, the court may “vacate” (undo) the order.

15 M.R.S. § 3318-A (Determination of competency of a juvenile to proceed in a juvenile proceeding).

15 M.R.S. § 3318-B (Disposition of a juvenile found incompetent to proceed).

Options for Resolving a Juvenile Case

Deferred disposition

If the juvenile and the juvenile's lawyer can reach an agreement with the prosecutor, the juvenile may be able to get a **deferred disposition** for the case.

A deferred disposition is a written agreement between the juvenile and the State. It lists the things the juvenile must do or must not do including, but not limited to:

- Going to court when notified to appear;
- Committing no new juvenile crime or civil offense;
- Agreeing to the conditions of the deferred disposition agreement; and
- Following all of the items listed in the conditions of release order.

See *Agreement of Juvenile and Order Deferring Disposition (JV-021)*.

A deferred disposition agreement can last for whatever length of time the court decides is reasonable and appropriate. The length of a deferred disposition is written in the deferred disposition agreement. The juvenile must sign the deferred disposition agreement.

When the time period in the deferred disposition is over, the court will send the juvenile a notification of a date and time the juvenile must return to court. The juvenile must return to court with proof of having done everything the juvenile agreed to do.

If the court agrees that the juvenile has successfully completed the agreement, the judge dismisses the case or adjudicates the juvenile of the lesser charge as agreed to in the deferred disposition.

If the juvenile violates the agreement or does not do everything, the State may ask the court to:

- Change or make the agreement last longer;
- Order rehabilitative services; or
- End the agreement.

If the court ends the agreement, it will schedule a dispositional hearing to decide what the consequences should be for the offense the juvenile admitted to in the deferred disposition.

15 M.R.S. § 3311-B (Deferred disposition).

Adjudicatory Hearing

The juvenile has the right to an **adjudicatory hearing**. An adjudicatory hearing is when a judge hears evidence from the state and the juvenile, and decides if the juvenile has committed the juvenile offense charged. It is similar to a trial.

Juveniles have the same trial rights as adults, except juveniles do not have a right to a jury trial. At the hearing, the State has the responsibility to prove the elements of the alleged offense beyond a reasonable doubt. The hearing is before a judge. At the hearing, the juvenile (through the defense lawyer) has the right to:

- Be in front of and ask questions of witnesses for the State;
- Give the court evidence and call witnesses; and
- Choose to testify or decide not to testify.

If the court finds that the State has not proven the case beyond a reasonable doubt, it will find the juvenile has not committed the offense. The juvenile will be released from any detention, and any previously ordered restriction will be removed.

If the court finds that the State has proven the case against the juvenile, the juvenile is adjudicated of having committed a juvenile crime. Under Maine law, an adjudication is not a conviction.

If the juvenile is adjudicated, the next step in the juvenile's case is a dispositional hearing.

15 M.R.S. § 3310 (Adjudicatory hearing, findings, adjudication).

Disposition

Instead of being “sentenced,” an adjudicated juvenile receives a disposition. Often the court will ask for written reports to help decide what should be the appropriate disposition, including a **social study** prepared by the JCCO. The prosecutor will make a recommendation as well. 15 M.R.S. § 3311 (Social study).

The juvenile and the juvenile's lawyer will also have an opportunity to give information and recommend a disposition. The juvenile may present any relevant information about the juvenile's background, personal history, physical or mental health issues, or substance use disorders, to the court.

After reviewing all the information, the court may order one or more of the following as the disposition:

- Probation. During this time the juvenile must do and not do certain things in order to successfully complete the period of probation. If the juvenile violates the probation, the juvenile may be committed to a detention facility. Probation can include a **suspended disposition**.
- Participation in treatment or case management services by the juvenile and/or the juvenile's family.
- A supervised work or service program where the juvenile can earn money to pay for damage the juvenile caused.
- Payment of money (restitution) to the victim for harm or damage the juvenile caused.
- Commitment to the custody of the Department of Health and Human Services or custody to a third party (foster care, group home, or similar living arrangement).
- Period of confinement up to 30 days.
- Commitment to a juvenile detention facility. A commitment to a juvenile detention facility is always for an indeterminate period but must be for at least one year. The commitment may not go longer than a juvenile's 21st birthday.
- Payment of a fine.

The juvenile may also have a driver's license suspended for up to six months for drug offenses, and up to twelve months for drug trafficking. Suspension of a juvenile's right to operate a motor vehicle, or to apply for a driver's license or permit in certain motor vehicle offenses, may also be imposed. See *Notice of Suspension (CR-JV-126)*.

The juvenile may be required to give up any firearms.

15 M.R.S. § 3312 (Dispositional Hearing); 15 M.R.S. § 3314 (Disposition).

Right to Appeal

If the juvenile disagrees with the court's disposition, the juvenile may file an appeal.

Appeals

If the juvenile or juvenile's parent, guardian, or legal custodian, does not agree with the court's decision at the adjudicatory hearing, the juvenile (usually through the juvenile's defense attorney) may be able to file an appeal. The juvenile may appeal:

- An adjudication, as long as the appeal is made after the court's order of disposition.
- An order of disposition (if the juvenile does not agree with the specific things the court ordered).
- A detention order.
- A bind-over order.

The juvenile has 21 days from the entry of the court's order to file a notice of appeal. If a juvenile or the parent, guardian, or legal custodian want to pursue an appeal, they should talk with the juvenile's lawyer about the process. If the juvenile is not able to afford a lawyer, the court will appoint one for the juvenile in order to file the appeal. See *Motion and Affidavit for Assignment of Counsel* (CR-JV-032); *Motion for Transcript at State Expense* (CV-CR-JV-166); *Transcript and Audio Order Form* (CV-CR-JV-165).

Most appeals are heard by the Maine Supreme Judicial Court. The Maine Supreme Judicial Court does not hear the case again. Instead, they review the case that happened in the Juvenile Court and decide if an error was made.

See *Notice to Juvenile of Right to Appeal to the Law Court* (JV-010); *Notice to Parent, Guardian, or Legal Custodian of Right to Appeal to Law Court* (JV-011); and *Notice to Appeal to the Law Court* (JV-012).

15 M.R.S. § 3401 and 15 M.R.S. § 3402 (Appeals).

V. CONFIDENTIALITY & COURT RECORDS

Court Hearings and Records

Juvenile court hearings are closed to the public unless:

- The juvenile has been charged with murder or a Class A, B, or C crime if committed by an adult; or

- The juvenile has been charged with a Class D crime after having been previously adjudicated of a Class D or higher crime.

15 M.R.S. § 3307(2) (Certain hearings public).

Juvenile Court Records

If the juvenile has been charged with a Class A, B, C offense, or charged for a second time or more with a Class D offense, the public is allowed to view the following documents in the juvenile's court file:

- The petition;
- The record of the hearing; and
- The order of adjudication.

Most records can be viewed by the following people:

- The victim of the juvenile offense;
- If the victim is a minor or cannot act on their own behalf, the victim's parent, guardian, or legal custodian;
- The juvenile;
- The juvenile's parents, guardians or legal custodian;
- The juvenile's lawyer;
- The prosecuting lawyer; and
- Any agency that is given custody of the juvenile as a result of the case.

The court may limit who has access to certain records and proceedings such as mental health evaluations, competency evaluations, or records that another law makes confidential.

There are also times when the court may allow other individuals to look at the juvenile's court file as long as the juvenile's name is removed from the file. This can happen only after the person wanting the records makes a written request to the court and the court approves the request.

15 M.R.S. § 3308 (Court records; inspection).

Sealing a Juvenile Court Record

A juvenile who has been adjudicated may be able to ask the court to “seal” the **juvenile court record** at a later date. Juvenile court records are not sealed automatically.

What does “sealing” mean?

Sealing a juvenile court record means that the public will not be able to see the juvenile’s court files. If a juvenile court record is sealed, a juvenile may tell individuals who ask the juvenile if they have a criminal record, other than someone from the courts or a criminal justice agency, the juvenile may respond as if the juvenile crimes never occurred.

- Sealing a juvenile court record does not erase the record of the case. Maine does not have “expungement.”
- If the juvenile record is sealed, it means that members of the public, such as employers or landlords, who search the State Bureau of Identification database will not see the record.
- However, Maine courts, criminal justice agencies, the juvenile, and anyone the juvenile designates, will be able to see the juvenile case record.

How to seal a juvenile court record

The juvenile must ask the court that originally heard the juvenile’s case to seal the case. The request must be in writing (“motion”). Motions can be filed only after three years have passed since the completion of or discharge from the disposition ordered. In addition:

- Since disposition completion, the juvenile cannot have been adjudicated for another juvenile offense and cannot have been convicted of committing a crime as an adult; and
- There cannot be any current proceedings or charges pending against the juvenile for a juvenile or adult crime.

A list of Maine district courts may be found at www.courts.maine.gov.

How does the court decide?

If the everything listed above is met, the court may seal a juvenile court record unless it finds the public's right to information substantially outweighs the juvenile's interest in privacy. The court's decision cannot be appealed.

Who can help make a request to seal a juvenile court record?

The juvenile or the juvenile's parent, guardian, or legal custodian may contact the lawyer who originally represented the juvenile in the case or another lawyer. The juvenile is not eligible for a court-appointed lawyer paid for by the State to make a request to seal a juvenile record.

VI. JUVENILES IN THE CUSTODY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OR IN INTERIM CARE

DHHS Custody

If a juvenile is adjudicated as having committed a juvenile offense, the court can order the juvenile to be placed in the custody of the Department of Health and Human Services (DHHS). The court may order this as part of the disposition of the case if the juvenile's safety will be at risk where the juvenile is currently living.

If the court places a juvenile in the custody of DHHS, DHHS is considered to be the juvenile's guardian with both physical and legal custody. DHHS will decide:

- Where the juvenile will live;
- Who the juvenile will live with;
- What school the juvenile will attend;
- What general rules will be in place for the juvenile; and
- What contact the juvenile will have with the juvenile's parent, guardian, or legal custodian.

Rights of parents, guardians, and legal custodians

Parents, guardians, and legal custodians have the following rights when the court is considering placing a juvenile in the custody of DHHS:

- Notice to the juvenile’s parent, guardian, or legal custodian at least 10 days before the court date to determine if the Juvenile will be placed in DHHS custody;
- The opportunity to be heard at the hearing; and
- Help from a court-appointed lawyer at no cost if the parent, guardian, or legal custodian cannot afford a lawyer.

15 M.R.S. § 3314(1)(C-1) (Disposition). See *Hearing Notice to Parents/Legal Custodian for Consideration of DHHS Custody (JV-016)*.

Appointment of a Guardian ad Litem

If the court is considering placing a child in the custody of DHHS, the court may appoint a **Guardian ad litem** (GAL) to help make that decision.

The GAL will talk to all the individuals involved in the case, including the juvenile. The GAL may also talk to others such as staff at the juvenile’s school, doctors, or other relatives. After speaking with the juvenile and others, the GAL then writes a report for the court recommending what next steps are in the best interest of the juvenile.

Reunification Services

DHHS must provide reunification services to the juvenile’s parents, guardians, or legal custodians. These services are designed to help the parents, guardians, or legal custodians do the work needed to get custody back of the juvenile. Sometimes the judge will require as part of a juvenile’s disposition that the juvenile take part in the reunification services. Other times, the juvenile’s participation will be optional. Services may include counseling.

The judge will review the case at least every six months. This review is called a “judicial review.” There are certain things that need to be reviewed at each of these court dates, including where the juvenile is living and how the parents or guardians are doing with reunification services.

22 M.R.S. § 4041 (Departmental responsibilities).

22 M.R.S. § 4038 (Mandated review; review on motion).

Interim Care

A police officer may take a juvenile into **interim care** for a short period of time. This may happen if the police officer believes that a juvenile:

- Is lost or has been abandoned;
- Could be in a dangerous situation; and/or
- Has left the juvenile's parents, guardians, or legal custodian's care without permission.

Interim care is not an arrest

- Interim care is not an arrest.
- The interim care will not be in police records.
- The police will not take the juvenile's fingerprints or send the juvenile's name, address, photograph, or other information to any agency except to help return the juvenile home.
- The police will not hold the juvenile involuntarily for more than six hours.

When an officer takes a juvenile into interim care, the officer will contact DHHS as soon as possible. DHHS will choose a place where the juvenile will stay, which is not a jail or a secure detention facility.

The officer or DHHS will notify the juvenile's parent, guardian, or legal custodian of the juvenile's whereabouts as soon as possible. DHHS will offer voluntary social services to the juvenile and their family and encourage the juvenile and family members to voluntarily accept services.

15 M.R.S. §3501 (Interim care).

DEFINITION OF KEY TERMS

Definitions of some of the terms used in juvenile cases are below. See also 15 M.R.S. § 3003.

Adjudicated: A juvenile is considered to have been “adjudicated” when the court decides that the State has proven beyond a reasonable doubt that the juvenile has committed a juvenile offense. A juvenile may also be “adjudicated” when the juvenile enters a plea of guilty to the juvenile offense that was charged.

Adjudicatory hearing: When a judge hears evidence from the state and the juvenile, and decides if the juvenile has committed the juvenile offense charged. It is similar to a trial.

Arrest: When a law enforcement officer detains a juvenile based on probable cause that a juvenile has committed a juvenile offense.

Bind-over hearing: A court hearing to determine if the State can go forward with the case against the juvenile as if the juvenile were an adult. The prosecutor decides if this is an issue that the court should hear.

Court clerks: Staff of the Maine Judicial Branch who keep court records, files, schedules for the court, and work in courtrooms.

Defense lawyer: Lawyer who represents a juvenile accused of a juvenile offense.

Deferred disposition: A possible resolution to a case where the parties agree to the juvenile temporarily admitting to a juvenile offense. Once the juvenile admits to the juvenile offense, the court date is set for a later time to give the juvenile time to complete the services and activities that the juvenile and the prosecutor agree to. The court needs to approve this agreement. The services and activities may include:

- Counseling;
- Attending school or a job;
- Living with a specific person; and
- Community service.

If the juvenile does everything that is required, with the approval of the prosecuting attorney, the court may dismiss the charges or allow the juvenile to enter an admission of guilt to a lesser charge.

Detention/Detained: When a juvenile is placed in a facility and not able to leave.

Disposition: Consequences ordered by the court for a juvenile who has been adjudicated.

Dispositional Hearing: A hearing after a juvenile has been adjudicated where evidence is given to the court to help the court decide what the consequences for the adjudicated juvenile will be.

Emancipated: When a juvenile is no longer under the legal control of the juvenile's parents, guardians, or legal custodians.

Guardian ad Litem: A person appointed by the court to inform the court about, and to represent, the needs and best interest of a juvenile.

Informal adjustment: A voluntary agreement between a juvenile and a Juvenile Community Corrections Officer (JCCO). The juvenile agrees to certain items and, if done, the JCCO recommends to the prosecutor that a petition charging the juvenile with a juvenile offense not be filed with the court. The prosecutor then makes the decision as to whether the petition will be filed.

Interim care: Temporary physical control of a juvenile by a police officer or other person authorized by 15 M.R.S. § 3501.

Judge: Judicial officer who oversees cases and proceedings in the Maine Juvenile Court and other courts.

Judicial Marshals: Law enforcement officers who provide for the safety and security of judges, court personnel, and the public at Maine courthouses.

Juvenile Case Records: All records that make up a juvenile court file. Access to these records depends on the type of crime as well as who is trying to see the court records. A juvenile case record does not include administrative or operational records of the judicial branch.

Juvenile Community Corrections Officer or JCCO: Staff of the Maine Department of Corrections who, among other things, conduct investigations and serve as juvenile probation officers in juvenile cases. JCCOs are involved in many parts of a juvenile case, including contact before the juvenile's first court appearance and the dispositional phase of the case. See 34-A M.R.S. § 5602 and 15 M.R.S. § 3203-A.

Lawyer of the day: A licensed Maine lawyer, appointed by the court, who is present in court and available to provide free legal advice to all juveniles at the first court appearance.

Prosecutor: A licensed Maine lawyer who represents the State of Maine in a juvenile case. The prosecutor may be either an Assistant District Attorney (ADA) or an Assistant Attorney General (AAG).

Social study: A study, required by the court, that looks at a juvenile's social situation including housing, family, school, and/or employment. The court may consider recommendations in the social study in its disposition.

Summons: A document given to the juvenile by a law enforcement officer stating the alleged crime that the juvenile is accused of committing as well as the date and location of the initial court appearance.

Suspended disposition: After a juvenile has been adjudicated of a juvenile offense, the court may delay the disposition/consequences while a juvenile participates in services determined by the court. For example, if a juvenile is ordered to pay money as a result of being adjudicated, the court may allow the juvenile to not pay the money right away as long as they do a certain number of community service hours. Unlike a deferred disposition, with a suspended disposition, what the juvenile has been adjudicated of doing will not change after the activities are completed.

SELECTED RESOURCES

Maine statutes and court rules

Maine Revised Statutes

mainelegislature.org

Title 19-A: Domestic Relations

Court Rules

www.courts.maine.gov

Maine Rules of Civil Procedure, Maine Rules of Evidence, Maine Rules of Appellate Procedure

Getting legal help

Maine State Bar Association Lawyer Referral Service

www.mainebar.community.lawyer | (800) 860-1460

\$25 administrative fee to help individuals find a private attorney; includes a 30-minute consultation

Pine Tree Legal Assistance

ptla.org

Online legal guides on many topics; contact information for local offices can be found on website.

www.courts.maine.gov

Kids Legal

kidslegal.org

Project within Pine Tree Legal providing free legal aid to Maine's children and their caregivers.

Immigrant Legal Advocacy Project

www.ilapmaine.org/ | (800) 497-8505

Volunteer Lawyers Project Walk-In Family Law Clinics

vlp.org/access-justice-today

Courthouse Assistance Project (CHAP) schedule of walk-in clinics

Domestic violence/sexual assault prevention organizations

Maine Coalition to End Domestic Violence

www.mcedv.org | (866) 83-4HELP

Maine Coalition Against Sexual Assault (MECASA)

mecasa.org | Help line: (800) 871-7741

Additional Resources

Division of Juvenile Services - Maine Department of Corrections

maine.gov/corrections/juvenile/index

Juvenile Justice Advisory Group - Division of Juvenile Services, Maine Department of Corrections

maine.gov/corrections/jjag/index

NOTES

DISABILITY ACCOMMODATION



The Maine Judicial Branch makes every reasonable effort to provide accommodations and auxiliary aids and services to people with disabilities at no cost to them so that they may access the court and its services. You may talk to your lawyer about arranging for accommodations, or contact the Court Access Coordinator at (207) 822-0718, TTY: Maine Relay 711, or accessibility@courts.maine.gov with requests. You may also contact the clerk's office in the court where your case is being heard. A link to the Disability Accommodation Request Form is available on the Judicial Branch website.

LANGUAGE ACCESS



The Maine Judicial Branch provides interpreters to people who have Limited English Proficiency (LEP) or who are deaf or hard of hearing at no cost to them so that they may access the court and its services. The Judicial Branch must also provide an ASL interpreter to court observers who are deaf or hard of hearing upon request. Please talk to your lawyer about arranging for an interpreter, or contact the Communications Access Specialist directly at (207) 822-0703, TTY: Maine Relay 711, or interpreters@courts.maine.gov with requests. You may also contact the clerk's office where your case is being heard. More information on interpreter assistance can be found on the Judicial Branch website.

Maine Judicial Branch
Administrative Office of the Courts
1 Court Street, Suite 301, Augusta, Maine 04330
www.courts.maine.gov